

FRANK WOLOZIN

OCTOBER 7 (legislative day SEPTEMBER 15), 1943.—Ordered to be printed

Mr. ROBERTSON, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 1222]

The Committee on Claims, to whom was referred the bill (H. R. 1222) for the relief of Jacob Wolozin, having considered the same, report favorably thereon with the recommendation that the bill do pass, without amendment.

The facts will be found fully set forth in House Report No. 396, Seventy-eighth Congress, first session, which is appended hereto and made a part of this report and your committee concur in the recommendations of the House.

[H. Rept. No. 396, 78th Cong., 1st sess.]

The Committee on Claims, to whom was referred the bill (H. R. 1222) for the relief of Jacob Wolozin, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, line 6, strike out figure "\$5,000", insert in lieu thereof figure "\$2,000".

The purpose of the proposed legislation is to pay to Jacob Wolozin, of New York City, the sum of \$2,000, in full settlement of all claims against the United States for injuries sustained by the said Jacob Wolozin, resulting from his being struck by a Work Projects Administration station wagon in New York City on June 26, 1942.

STATEMENT OF FACTS

Jacob Wolozin was an independent operator in the Fulton Fish Market in New York, and it is the custom in the early afternoon, when the workday is over, for the streets about the fish market to be completely and entirely flushed. About 2:15 p. m., June 26, 1942, just after the flushing of the streets, a Work Projects Administration station wagon, operated by an employee, and on official business, traveling at about 35 miles an hour, entered the street on which the market was situated. The street was slippery from the recent flushing, and the station wagon skidded, causing the driver to lose control when he attempted to check the speed of the station wagon by applying his brakes. The station wagon then skidded into and injured Mr. Wolozin, who was pushing a pushcart along the street.

Mr. Wolozin was removed to Beekman Street Hospital where he was confined until July 11, 1942. His injuries were diagnosed as a concussion of the brain, three ribs fractured, and numerous contusions and abrasions about the face and body. After his discharge from the hospital he complained of having dizzy spells and returned for frequent check-ups. In view of his advanced age, 66, it is believed that he will never completely recover from his injuries and more probably will be permanently disabled. This belief is supported by the prognostication of his physician.

Mr. Wolozin was self-employed and was engaged in the junk business. His income was estimated to be \$30 a week from which he supported himself and an invalid wife. Hospital expenses total \$272.98 and doctor bills \$58, according to the departmental statement.

The Federal Works Agency, under which the Work Projects Administration operates, admits the Government's liability, stating:

"This Agency is of the opinion that, although the driver of the station wagon was absolved of blame by the State motor vehicle bureau, the accident was caused by his negligence in that, although he was aware, or by observation would have become aware, of the slippery condition of the street, he failed to reduce the speed of the station wagon before entering upon the slippery section. Accordingly, this Agency recommends enactment of the proposed legislation."

Your committee has reduced the amount payable under the bill to \$2,000, which is considered fair and reasonable, and recommend favorable consideration of the proposed legislation.

Appended hereto is the report of the Department, together with other pertinent evidence, all of which is made a part of this report.

FEDERAL WORKS AGENCY,
Washington, March 20, 1943.

The Honorable DAN R. McGEHEE,
Chairman, Committee on Claims, House of Representatives.

DEAR MR. McGEHEE: Reference is made to your letter of October 6, 1942, addressed to the Commissioner of Works Projects, and to my reply of October 12, 1942, relative to H. R. 7623, Seventy-seventh Congress, a bill for the relief of Jacob Wolozin, and requesting a report thereon.

This Agency's report is as follows:

The bill proposes to appropriate "to Jacob Wolozin, New York City, N. Y., the sum of \$5,000, in full settlement of all claims against the United States for injuries sustained by the said Jacob Wolozin, resulting from his being struck by a Works Projects Administration station wagon in New York City, N. Y., on June 26, 1942."

The injury to Mr. Wolozin occurred at 2:15 p. m., June 26, 1942, on South Street, between Beekman Street and Peck Slip in New York City, when he was struck by a station wagon being operated by an employee of the Work Projects Administration. There are a number of fish markets along this block of South Street which permit slimy waste materials to flow into the street. At the end of each market day it is customary for city employees to wash the street by means of a hose attached to a fire hydrant. This portion of South Street is asphalt, while the preceding block is paved with granite blocks.

The evidence establishes that the operator of the station wagon traversed the block section and entered upon the slippery asphalt section of South Street at Peck Slip at a speed which according to the testimony of various witnesses was between 20 and 40 miles per hour. The operator claims that a city employee cleaning the street manipulated the hose in such a manner that the stream of water from the hose struck the wheel of the station wagon with such force that the wagon swerved about suddenly and the operator lost control. From the evidence, it appears, however, that the city employee had finished washing the street a few minutes before and the hose was no longer in use, and that the station wagon skidded upon the slippery street causing the operator to lose control when he attempted to check the speed of the station wagon by applying his brakes. The station wagon then skidded into and injured Mr. Wolozin, who was pushing a pushcart along the street.

The injured person was removed to Beekman Street Hospital where he was confined until July 11, 1942. His injuries were diagnosed as a concussion of the brain, three ribs fractured, and numerous contusions and abrasions about the face and body. After his discharge from the hospital he complained of having dizzy spells and returned for frequent check-ups. In view of his advanced age,

66, it is believed that he will never completely recover from his injuries and more probably will be permanently disabled. This belief is supported by the prognostications of Dr. Bogan.

Mr. Wolozin was self-employed and was engaged in the junk business. His income was estimated to be \$30 a week from which he supported himself and an invalid wife. Hospital expenses to date total \$272.98 as evidenced by an invoice. Doctor bills are reported to be \$50; however, there is no statement in the file from the doctor as to his charges.

At a hearing conducted by the New York State Motor Vehicle Bureau, the driver of the station wagon was absolved of the blame and no action was taken to suspend his operator's permit. The injured party was not represented at this hearing.

This agency is of the opinion that, although the driver of the station wagon was absolved of blame by the State motor vehicle bureau, the accident was caused by his negligence in that, although he was aware, or by observation would have become aware, of the slippery condition of the street, he failed to reduce the speed of the station wagon, before entering upon the slippery section. Accordingly, this agency recommends enactment of the proposed legislation.

There are enclosed photostatic copies of pertinent papers from the files of the Work Projects Administration.

The Bureau of the Budget advises that, while the final adjournment of the Seventy-seventh Congress has prevented further consideration by that Congress of H. R. 7623, there would be no objection by that office to the submission of this report to the incoming Congress of a recommendation for the enactment of legislation for the relief of Jacob Wolozin but that the evidence available indicates that the proposed payment would be excessive.

Sincerely yours,

ALAN JOHNSTONE, *General Counsel.*

Enclosures.

STATE OF NEW YORK,
City of New York, County of New York, ss:

Jacob Wolozin, being duly sworn, deposes and says:

I reside at 1563 Forty-fourth Street, Brooklyn, N. Y.

On June 26, 1942, I met with an accident on South Street, New York City, as a result of which I was seriously injured.

Affidavits by Nick Tricarico and Patrick Moscattiello, who witnessed the accident, have been submitted reciting the circumstances under which the said accident occurred. I have read these affidavits and they accurately describe the manner in which I was hurt.

As a result of the accident I was confined to the Beekman Street Hospital from the date of the accident to July 11, 1942. From July 11, 1942, to July 25, 1942, I was confined in bed at home.

I have not been able to work since the date of the accident and have, therefore, lost approximately 7½ months from work to date, at \$30 per week. I am not now gainfully employed and upon information and belief will never be able to do the work of my regular occupation.

I am 66 years old, married, and my wife is dependent upon me for support. Her dependency is acute in view of the fact that she is infirm and requires constant hospitalization.

Prior to the accident I was a junk dealer and earned approximately \$30 a week.

JACOB WOLOZIN.

Sworn to before me this 12th day of February 1943.

DAVID ZELDIN, *Notary Public.*

Commission expires March 30, 1944.

CITY AND STATE OF NEW YORK,
County of New York, ss:

Patrick Moscattiello, being duly sworn, deposes and says: I reside at 99 Roosevelt Street, Manhattan, in apartment 4 on the second floor. On June 26, 1942, at 2:15 p. m. I was standing on South Street eating a frankfurter at a frankfurter cart which was on the highway on South Street about 35 feet from the northerly sidewalk curb of South Street, opposite 106 South Street. I saw a brown station wagon type vehicle coming west on South Street from Peck Slip toward Beekman

Street. I also saw a man pushing a cart, walking west on South Street in the same direction. The man was pushing his cart about 5 feet from the northerly sidewalk curb of South Street. I saw the truck hit a police stanchion which was on the highway about 12 feet from the curb. The right front hood of the vehicle struck the stanchion and the stanchion was thrown into the air and hit the building at 106 South Street. After the truck hit the stanchion, it swerved toward the right and toward the sidewalk. The right-hand front side of the truck then hit the man and pushcart. The pushcart flew into the air about 15 feet and the truck dragged the man to the sidewalk curb. The truck then went on to the sidewalk and stopped. When the truck stopped, the entire truck was on the sidewalk about a foot from the curb and it was facing east, toward Peck Slip in the opposite direction to that in which it was going when I first saw it. In other words, the truck skidded around in a circle.

The man was lying with his head on the curb and the rest of his body was next to the curb and on the highway. He was bleeding over the right eye. A man, Sam Grand, came over and put some black coffee in the man's mouth. Meanwhile, I put some burlap bags which were on the cart, under the man's head and I stayed there until the ambulance came about 10 minutes later. A police officer came over to the scene of the accident right after it happened. Later, plain-clothes men came over and measured the truck and made inquiries.

The highway had been flushed (washed) by the department of sanitation about 5 minutes before the accident and the highway was wet at the scene of the accident.

By the time the plainclothesmen came to the scene of the accident, the skid marks of the truck which had hit the man were dried up.

In my opinion, the truck was going about 35 miles per hour when the accident happened.

In my opinion, the accident was caused by the negligence of the driver of the vehicle which struck the man.

I have dictated the foregoing statement and have read the same, and it is true in every respect.

PATSY MOSCATELLO.

Sworn to before me this 27th day of June 1942.

SAUL C. KAUFMAN, *Notary Public*.

Commission expires March 30, 1944.

CITY AND STATE OF NEW YORK,
County of New York, ss:

Nick Tricarico, being duly sworn, deposes and says:

I am 32 years of age and reside at 604 Humboldt Street, Brooklyn, N. Y., second floor right. I reside with my wife, Frances, and my two children. I am employed by the House of Freda, a wholesale fish market at 452 Ninth Avenue, New York City. The telephone number is MEdallion 3-1780. I am a chauffeur and drive my employer's truck to and from the Fulton Fish Market.

On June 26, 1942, at about 2:15 p. m., I was sitting at the driver's wheel in the cab of my truck which was backed up to the northerly curb of South Street in front of the place of business of Lester & Toner, Inc., at 100 South Street, Manhattan. I was parked facing the water front, and I was about 25 feet west of Beekman Street. I was facing and looking east on South Street toward Peck Slip. I saw a brown station wagon, suburban-type vehicle, coming from Peck Slip west on South Street. The vehicle was going very fast, about 40 to 45 miles per hour. The vehicle was on the highway about 12 to 15 feet from the northerly sidewalk curb on South Street. There were no other vehicles on the highway at the time, between Beekman Street and Peck Slip. The streets had been washed by the sanitation department about 5 to 10 minutes before. When the vehicle was about 50 feet past Peck Slip toward Beekman Street it started to skid. The vehicle swerved left and right and then started to skid toward the curb in front at 106 South Street. I saw a pushcart peddler walking and pushing his cart, going west on South Street about 3 feet from the northerly sidewalk curb and in front of 106 South Street.

The truck was skidding very fast toward the pushcart peddler. The truck then skidded to the right in a semicircle, and the right front fender near the front bumper hit the pushcart peddler and threw him about 6 feet off the ground and into the air. The pushcart peddler fell back to the ground at the sidewalk curb in front of 106 South Street. The man's legs, when he was lying on the ground, were toward Peck Slip and his head was on the highway next to the sidewalk curb. The truck also hit the pushcart which was pushed about 7 feet toward

Beekman Street next to the curb. I noticed that the handle of the pushcart had been broken by the truck. After the truck hit the man, it went onto the sidewalk and stopped. When the truck was finally stopped, the front of it was facing Peck Slip and the entire truck was on the sidewalk in front of 106 South Street between the posts which hold the shed over the sidewalk. As soon as the truck stopped the chauffeur, a colored man, jumped out and ran over to the pushcart peddler, who was lying on the ground. I also ran over immediately. Another man, whom I know as "Sam" (he operates a cigar and cigarette stand at the corner of Beekman and South Streets) ran over and a few minutes later he brought a cup of black coffee and tried to put some of coffee in the pushcart peddler's mouth. I also saw Patrick Moscatiello put some burlap bags, which he took from the pushcart, under the man's head, because his head was lying near the curb where there was a lot of water. The pushcart peddler's face was covered with blood—one eye was completely shut and bleeding. The man was unconscious for several minutes and then mumbled a few words, "What are you doing to me?" The pushcart peddler remained lying on the highway, at the curb, until the ambulance came, about 10 or 15 minutes after the accident.

As soon as the accident happened, I saw a police officer going to a phone booth near where my truck was parked. I went away as soon as the ambulance came. A few days after the accident, I talked with Mr. Moscatiello and asked him if he knew the condition of the pushcart peddler. He told me that he had signed a statement for Mr. Saul C. Kaufman, the attorney for the pushcart peddler. I then called Mr. Kaufman on the telephone and arranged to meet him so that he could have my statement.

In my opinion the accident was caused solely because of the negligence of the truck driver. He was definitely exceeding the speed limit—driving about 40 to 45 miles per hour and did not have control of his vehicle at all. I have been driving a truck for 17 years and I know the rate of speed at which vehicles are traveling. There were no other persons on the highway near the curb at the time of the accident. There were about two or three men near a frankfurter cart on South Street opposite 106 South Street and about 35 feet away from where the accident happened. Mr. Moscatiello was at the frankfurter cart. I am at the market where the accident happened, from 7 a. m. to about 2:30 to 3 p. m. every day except Saturdays and Sundays.

I have dictated the foregoing statement which consists of three sheets of paper, to Mr. Kaufman, and the same is true in every respect and detail.

I have not been promised any money, nor have I received any money for making the foregoing statement.

NICK TRICARICO.

Sworn to before me this 15th day of July 1942.

SAUL C. KAUFMAN, *Notary Public*.

Commission expires March 30, 1944.

DR. ROBERT BOGAN,
New York, N. Y., February 11, 1943.

To Whom It May Concern:

I have this date examined Mr. Jacob Wolozin, of 1563 Forty-fourth Street, Brooklyn, N. Y.

History: On June 26, 1942, while a pedestrian he was knocked down by a truck and rendered unconscious. He regained consciousness in the Beekman Street Hospital, New York, N. Y., to which hospital he had been removed by ambulance from the scene of the accident. He sustained injuries to the head, face, nose, chest, left lower extremity. He sustained a laceration of right eyebrow, fractures of three ribs of left lower chest, fracture of nose, fracture of left fibula. Since accident he has been suffering from headaches, dizziness, with a tendency to fall backwards on arising from lying or sitting position, swelling of left ankle, a protrusion of the left lower chest anterolaterally, defective memory, absent-mindedness. I am informed by his family that he is depressed and not as bright and alert as he was prior to the alleged accident. He has not been able to return to work since the accident.

Examination: There is a depressed, adherent, easily visible scar of the right eyebrow, due to laceration sustained in alleged accident. There is a deviation of the nasal septum to the right with some nasal obstruction. There is a hernia at the lower margin of the left chest, anterolaterally, the size of a large orange, due to accident. There is an impulse on coughing. The breathing of the left lower chest is rough on auscultation. Pulse 75. Blood pressure 103/80. There is a

tremor of the outstretched fingers. He has a dull depressed appearance, and does not comprehend questions or orders well. Otherwise neurological examination is negative. His left ankle is somewhat oedematous.

Diagnosis: (1) Disfiguring scar of the right eyebrow. (2) Deviation of nasal septum with nasal obstruction. (3) Post-cerebral concussion syndrome, with memory and personality changes, headache and dizziness. (4) Post-traumatic hernia lower margin left chest. (5) Left ankle post-traumatic swelling and restriction.

Prognosis: About 10 to 12 weeks after operation for hernia which is advisable, he should be able to do some light work. I believe, however, that there will be a permanent residua of his post-cerebral concussion syndrome and that he will never be able to do the work of his regular occupation. There will be some permanent restriction of left ankle, and the scar of eyebrow and the nasal condition are permanent.

Very truly yours,

ROBERT BOGAN, M. D.

BEEKMAN HOSPITAL,
New York, July 17, 1942.

Re Jacob Wolozin.

Mr. SAUL C. KAUFMAN,

38 Park Row, New York City.

MY DEAR MR. KAUFMAN: We are forwarding to you an abstract from our record of the treatment of the above-named patient.

The patient, a 66-year-old white man, was admitted to this hospital on June 26, 1942, via ambulance, with a history of having been struck by an automobile at Beekman and South Streets, New York City, sustaining injury to his head, face, and chest. There was a history of unconsciousness and, on admission, patient was in a semicomatose condition.

Examination revealed a fracture of the nasal bone, a liner laceration of right eyebrow with ecchymosis and marked swelling of the eyelid. No bleeding from orifices. There was an abrasion along the left costal margin surrounding a half orange-sized lipomatous mass. There was acute tenderness and crepitation on palpation of the lower left ribs anteriorly; friction rub heard over the left chest. There was also an abrasion at base of right thumb. Spinal tap done and 10 cc. cloudy fluid removed. Neurological examination negative for organic disease of the central or peripheral nervous system. X-ray of skull negative for fracture. X-ray of chest revealed fracture of eighth, ninth, and tenth ribs on the left. There was also a hair line running irregularly downward and then inward in a reverse L shape in the left fibula; this was considered a fracture but did not produce any separation.

Chest strapped with adhesive and nose corrected and splints applied with adhesive. Laceration of eyebrow sutured with four black silk sutures which were removed on his eighth hospital day, and nose splint also removed at this time, with good result. He was on concussion routine and was permitted up beginning his thirteenth day. He was discharged on July 11, 1942, improved.

Following his discharge from the hospital, the patient made one visit to the out-patient department. He was still complaining of dizziness. He is to return again on July 31, 1942.

Diagnosis: Lacerated wound of nasal region; communicating with fracture of nasal bone, comminuted, with depression of fragment, right; lacerated wound of right supra-orbital region; fracture of eighth, ninth, and tenth ribs, left; abrasion of lateral costal region, left; fracture of left fibula; abrasion of dorsum right hand at base of thumb; concussion of brain.

Very truly yours,

BEEKMAN HOSPITAL,
J. E. PINE, Liability Department.

BEEKMAN HOSPITAL,
New York, N. Y., October 19, 1942.

To Mr. Jacob Wolozin,
Address: 15-64 Forty-fourth Street, Brooklyn.

Admitted: June 26, 1942. Discharged: July 11, 1942.

For services rendered:

Hospital care, 16 days, at \$5.78 per day	\$92.48
X-rays	42.00
Neurological consultation	110.00
Surgeon's fee, nose consultation, eye consultation, operating-room fee, physiotherapy treatments.	
Laboratory tests:	
2 urinalyses	4.00
1 spinal fluid cell count, etc.	7.50
1 blood typing	5.00
Adhesive strapping	1.00
Ambulance transportation	10.00
Total	272.98

FEDERAL WORKS AGENCY,
WORK PROJECTS ADMINISTRATION,
June 27, 1942.

EMPLOYEES' STATEMENT

I, David Bleier, identification No. 213664, residing at 2707 Sedgwick Avenue, New York City, employed as a material inspector on project No. 265-4-97-0000, job No. 440, located at One Hundred and Twenty-third Street and Roosevelt Avenue, Corona, Long Island, make the following statement of my free will and accord:

On June 26, 1942, about 12:45 p. m., I arrived at the Colonial Sand & Stone Co.'s dock, situated at the foot of Roosevelt Street and East River, to test sand and gravel on barge *Daniel J. Dugan*. Upon completion of this assignment, I telephoned my report to my supervisor, Mr. C. Richardson, at 70 Columbus Avenue, New York City. In course of this telephone conversation, Mr. Richardson requested me to return to the office, 70 Columbus Avenue, New York City.

I left the Colonial Sand & Stone Co.'s dock at 2:10 p. m., driving west on South Street, heading for the West Side Highway. When we arrived at Peck Slip, we were driving off a granite block pavement onto a sheet asphalt pavement, at a speed of about 18 to 20 miles per hour. This portion of South Street between Peck Slip and Beekman Street is known as Fulton Fish Market, where fish is displayed and cleaned on the road. At the time we were driving through this street the sanitation department's employee, whose name is Delta Rosa, badge No. 959, residing at 18 Orient Avenue, Brooklyn, N. Y., was flushing this street, using a water hose connected to a fireplug in street, stationed on the southerly side of the street, playing the stream of water north, as the street is graded to the northerly curb. I don't believe we drove more than 50 feet on this fish-slimed asphalt pavement when our car wheels were hit by the stream of water from the water hose, which caused our car to skid.

As we started skidding, Mr. Benjamin Wooby, the chauffeur, immediately shut off the gas and in his bewilderment put the brakes on, from this point on our car started skidding around about face. The injured person, Mr. Jacob Wolozin, was pushing a 3-wheeled push cart on the right side of our car and was about 20 feet in front of our car. As our car was skidding and making this around about face turn we struck Mr. Wolozin in the back with the left front side of our car, causing him to fall to the ground and then our car straightened out facing east, parallel with curb about 15 to 20 feet south of curb and from this point on, car skidded sideways toward the curb. When the car hit the curb, miraculously the car skidded onto sidewalk in front of 106 South Street, between two wooded posts supporting a sidewalk shed. I opened the door to get out of the car and found the body lying against the curb, feet facing east. From the position the body was lying it was apparent that the car while skidding pushed the injured person against the curb and the rear wheels skidded over some part of his body while alighting on sidewalk.

I immediately notified my office regarding this accident. This accident occurred about 2:15 p. m.

I also wish to make the following statement which I ascertained from the police officer present, that this was the third accident on this street this day, and that this slimy condition is prevalent and causes skidding accidents almost daily.

The above is a true statement to the best of my knowledge and belief.

DAVID BLEIER.

Witnessed by:

L. Martin, identification No. 194745.

FEDERAL WORKS AGENCY,
WORK PROJECTS ADMINISTRATION,

July 6, 1942.

EMPLOYEE'S STATEMENT

I, Benjamin Wooby, identification No. 69497, residing at 413 East One Hundred and Twenty-third Street, New York City, employed as a driver, job No. 440-265-4-97-0000, located at 70 Columbus Avenue, New York City, make the following statement of my free will and accord:

On June 26, 1942, I was assigned to drive David Bleier, material inspector, in station wagon, fleet No. 79.

At 2:10 p. m., we left the Colonial Sand & Gravel Co. dock at foot of Roosevelt Street, E. R., and turned southwest on South Street, heading for the West Side Highway.

We were proceeding at about 18 to 20 miles per hour and upon reaching Peck Slip we hit the asphalt pavement which is the Fulton Fish Market section of South Street.

As we reached this point, the department of sanitation was flushing the street with a hose and the pavement was very slippery. We had not proceeded more than about 50 feet on this pavement when the stream of water from the hose hit the rear wheels of the station wagon, causing it to skid sideways.

In order to bring the car out of the skid I shut off the gas and applied the foot brake slightly to slow the car, but the car continued to skid out of control, turning completely around toward the curb.

As the car was skidding, it struck Jacob Worolzin who was pushing a small pushcart, knocking him under the car. The car skidded up against the curb and stopped.

The accident was reported immediately to 70 Columbus Avenue by Mr. Bleier and the police department made an investigation of the accident.

This accident was unavoidable and due to the car skidding out of control on the slippery pavement, caused by the stream of water from the hose striking the rear wheels of the car.

The above is a true statement to the best of my knowledge and belief.

BENJAMIN WOOPY.

Witnessed by:

ROBERT HURD, identification No. 287154.

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